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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/017,392	02/02/1998	REN JUDKINS	980072	8252

7590

11/23/2005

BUCHANAN INGERSOLL PROFESSIONAL CORP  
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301 GRANT STREET 20TH FLOOR  
PITTSBURGH, PA 152191410

EXAMINER
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JOHNSON, BLAIR M

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/017,392

Applicant(s)

JUDKINS, REN

Examiner

Blair M. Johnson

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-81 is/are pending in the application.
- 4a) Of the above claim(s) 2-5, 9, 10, 13-24, 31, 34-43, 49, 50, 60, 63-72 and 81 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25-30, 32, 33, 51-59, 61, 62 and 73-80 is/are allowed.
- 6) ☒ Claim(s) 1, 6, 7, 11, 12 and 44-48 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

Claims 2-5,9,10,13-24,31,34-43,49,50,60,63-72 and 81 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/15/00.

It is noted that of the claims listed by Applicant as being readable on the elected specie, claims 13-24,34 and 81 are considered to read on species other than that elected and are also withdrawn at this time.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1 and 12 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by the Rosette.

Note: the Rosette is referenced in interference cases 104,328 and 104,329, as well as in a related CAFC case (Newell vs. Springs). It is cited on Applicant's IDS of 3/21/05.

The term "zone" reads on portions of the area of connection between cells and being located on each side of and delineated by the center line of the cells.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Rosette in view of Anderson.

Anderson discloses cells attached by welding (column 5, line 35). While the attachment of means used in the Rosette reference is not readily apparent, it would have been obvious, in view of Anderson, to use this well known expedient so as to achieve it's well known advantages.

Regarding claim 11, the use of non-woven fabrics for cellular shades is taught by Anderson, column 3, line 2, and it would have been obvious, in view of Anderson, to use this well known expedient so as to achieve it's well known advantages.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosette in view of Colson '027.

Colson discloses cells attached to each other through the use of glue beads (column 3, lines 11-12) that are applied by nozzles 128,129. In view of this teaching, it would have been obvious to use beads of glue so as to effectively connect the cells.

***Double Patenting***

Claims 1,6,7,11,12,44-48 and 51-57 are provisionally rejected on the ground of nonstatutory double patenting over the claims of copending Application No. 08/756,282.

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This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claims 8,25-33,58,59,61,62 and 73-80 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the claims of copending Application No. 08/756,282 view of Corey et al.

Corey et al discloses a headrail, bottom rail and a cord, all conventional to a cellular pleated shade. In view of this teaching, it would have been obvious to modify the claimed invention of '282 to have such structural elements so as to establish a use for the pleated element.

This is a provisional obviousness-type double patenting rejection.

***Allowable Subject Matter***

Claims 25-33 and 44-80 are allowed.

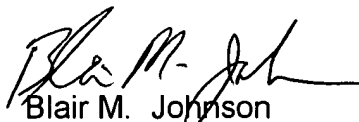
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Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (571) 272-6830. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Blair M. Johnson  
Primary Examiner  
Art Unit 3634

BMJ  
11/21/05